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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/815,374	03/22/2001	Asit Dan	YOR920000769US1	4247
35526	7590	09/15/2005	EXAMINER	
DUKE. W. YEE YEE & ASSOCIATES, P.C. P.O. BOX 802333 DALLAS, TX 75380			FADOK, MARK A	
			ART UNIT	PAPER NUMBER
			3625	

DATE MAILED: 09/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/815,374	Applicant(s) DAN ET AL.	
	Examiner Mark Fadok	Art Unit 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23,24,47,48,71,72,95 and 96 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23,24,47,48,71,72,95 and 96 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 February 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Election

The examiner is in receipt of applicant's response to office action mailed 5/25/2005, which was received 6/23/2005. Acknowledgement is made to the election of Group III which includes claims 23,24,47,48,71,72,95 and 96 and the cancellation of claims 1-22,25-46,49-70, and 73-94, leaving claims 23,24,47,48,71,72,95 and 96 as pending in the instant application of the claims elected claims 24,48,72 and 96 were amended response filed 2/15/2005. The examiner has carefully considered the amendments and arguments provided in the response to office action mailed 10/15/2004 which was received 2/15/2005 and finds them to be convincing, however after further searching the following new grounds of rejection follows:

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 23 recites the limitation "the set of items" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 23 is rejected under 35 U.S.C. 102(e) as being anticipated by

Hare et al. (US 6,850,900).

23. (Original) A method in a first data processing system for generating a customized catalog (abstract), the method comprising:

presenting a plurality of items to a user located at a second data processing system (FIG 1, item 14);

placing an item from the set of items in a set in response to a selection of the item by the user (FIG 1, item 20c);

generating the customized catalog in response to a request indicating that that the set is complete (FIG 5, item and FIG 10);

negotiating terms for purchasing items in the customized catalog (FIG 5, item 76);

establishing a protocol for purchasing items from the customized catalog(col 5, lines 50-55); and

placing the customized catalog on a Web site (FIG 1, item 10).

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Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hare in view of Official Notice.

In regards to claim 24, applicant defines service level agreements as "agreements that include items, such as seller's site response time, availability of items, contacts for problems, errors, non-delivery, and other related items". Considering this definition, Hare teaches negotiating general contract terms (col 16, lines 55-67), but does not specifically mention that the terms and conditions are service level agreements. It was old and well known in the art to establish service level agreements within the general terms and conditions of a contract. It would have been obvious to a person having ordinary skill in the art to include within the general terms and conditions, service level performance, because this would permit the buyer to exit a contract if a supplier was not performing and allow the buyer to purchase from another supplier without having to purchase the product from the supplier that was not performing, thus saving time and money by not having to accept excess inventory when it has been supplied by another source.

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In regards to claims 47,48,71,72,95 and 96, these claims are considered parallel claims to claims 23 and 24 above and are rejected for the same rationale.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Mark Fadok** whose telephone number is **(571) 272-6755**. The examiner can normally be reached Monday thru Thursday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Wynn Coggins** can be reached on **(571) 272-7159**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **receptionist** whose telephone number is **(571) 272-3600**.

Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450

Alexandria, Va. 22313-1450

or faxed to:

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(571) 273-8300 [Official communications; including

After Final communications labeled

"Box AF"]

(571) 273-6755 [Informal/Draft communications, labeled

"PROPOSED" or "DRAFT"]

A handwritten signature in black ink, appearing to read 'Mark Fadok', with a stylized flourish at the end.

Mark Fadok

Primary Examiner